IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO. 850 OF 2004

IN

SUM. SUIT NO. 2604 OF 2003

Shri Harishchandra T. Sanil. .. Plaintiff.

vs.

Thakoor Technologies

Pvt. Ltd., .. Defendants.

Mr. Rajesh Marawoor i/by Marawoor & Wamorkar & Co. for plaintiff.

Mrs Alpana Ghone a/w Ms. Latha i/by Narayan & Narayan for defendants.

CORAM : S.U. KAMDAR, J.

DATE : 4th October, 2005.

P.C.:

. The present suit is filed for the goods sold and delivered. The claim in the suit is for Rs. 69,616.47 ps with further interest thereon @ 18% per annum on Rs. 46,166.45 ps. The only defence raised by the defendants is that though the said amount is due and payable but by virtue of the fact that there are certain toolings which are lying with the

plaintiffs, they are not liable to pay the aforesaid amount. In support of the aforesaid contention, the learned counsel has relied upon a letter dated 1.4.2000 Exhibit-1 to the affidavit in reply stating therein that there are certain toolings which are lying with the plaintiffs. However, there is nothing to show that there is any connection between the toolings which are lying and the suit transaction of the goods sold and delivered. In my opinion, merely because there are some toolings lying with the plaintiffs, the defendants cannot refuse to make payment. If the defendants are entitled to recover the toolings, it is always open for them to apply for doing so by adopting appropriate legal proceedings. In that in view of the matter, I find no substance in the contention. Summons for judgment is made absolute. Suit is decreed as prayed with interest at the simple rate of 18% per annum from the date of the suit till payment and/or realisation.

2. Refund of Court fee as per rules.